

OFFICE OF THE COUNTY ATTORNEY

I. Mission Statement

To diligently render proficient legal services ethically and honorably; and to act as an advisor and advocate to the various county entities which comprise the County of Kauaʻi on behalf of the people.

II. Department Goals

The Department's goal is to provide timely competent legal advice and representation to the Mayor, County Council, and to all Departments, Commissions, Boards and Agencies. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

Powers, Duties, and Functions

1. The county attorney shall be the chief legal adviser and legal representative of the county administration, all county agencies, the county council, and all county officers and employees in matters relating to their official powers and duties. The county attorney shall also perform all other services incident to the county attorney's office as may be required by law.
2. The county attorney shall have the power to appoint such deputy county attorneys and necessary staff authorized by the council, within the appropriation made therefor. Such deputies shall serve at the pleasure of the county attorney.
3. The council may, by vote of five members, authorize the employment of special counsel for any matter necessitating such employment. Any such authorization shall specify the compensation, if any, to be paid for said services. (Article VIII, Section 8.06, Kauai County Charter)
4. Legal process against the county shall be served upon the county attorney or any of the deputies.
5. Legal adviser of the council. (Article VIII, Section 8.04, Kauai County Charter)
 - a. Attend their meetings when required.
 - b. Oppose all claims and accounts against the county when the county attorney deems them unjust and illegal.
6. Legal advisor of the county administration. Render opinions to county officers on matters relating to the duties of their respective offices. Give, when required and without fee, an opinion in writing to county officers on matters relating to the duties of their respective offices.

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7. Defend county officers, acting within their official capacities, in civil actions. The county attorney is not required to defend any officer in any matter or case out of which criminal proceedings against such officer may arise.

8. Counsel for police officers. (Sections 52D-8 and 52D-9, HRS)

Section 52D-8 “Police officers; counsel for. Whenever a police officer is prosecuted for a crime or sued in a civil action for acts undertaken in the performance of the officer's duty as a police officer, the police officer shall be represented and defended:

- (1) In criminal proceedings by an attorney to be employed and paid by the county in which the officer is serving; and
- (2) In civil cases by the . . . county attorney ...”

“Section 52D-9 Determination of scope of duty. The determination of whether an act, for which the police officer is being prosecuted or sued, was undertaken in the performance of the officer's duty, so as to entitle the officer to representation by county-provided counsel, shall be made by the county police commission. Before making a determination, the police commission shall consult the county attorney or the corporation counsel, who may make a recommendation to the police commission with respect thereto. The determination of the police commission shall be conclusive for the purpose of this section and section 52D-8.”

9. Legal adviser of the Board of Water Supply. (Section 54-16, HRS)

Prosecute and defend any and all actions and proceedings involving matters under the jurisdiction of the Board of Water Supply.

10. Legal adviser of the Liquor Control Commission. (Chapter 281, HRS, as amended)

Defender of investigators and employees.

- a. Section 281-104. "Whenever any investigator or other employee of the liquor commission shall be. . . sued in any civil cause for acts done in the performance of the investigator's or employee's duty as such investigator or employee, the investigator or employee shall be represented and defended . . . (2) in any such civil cause by the . . . county attorney, of the county in which the investigator or employee is serving. . . .”
- b. Section 281-105. Determination whether acts were in scope of duty shall be made by the liquor commission after consultation with the

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county attorney who may make a recommendation to the commission. Such determination shall be conclusive for such purpose only.

11. Act as counsel for appointing authority under Chapter 76, HRS, (Civil Service Law). (Section 76-47, HRS)
12. Duty under Chapter 480, HRS: Monopolies; Restraint of Trade.

Section 480-20: "(a) . . . The county attorney . . . shall investigate and report suspected violations of this chapter to the attorney general. (b) Whenever this chapter authorizes or requires the attorney general to commence any action or proceeding, including proceedings under Section 480-18, the attorney general may require the county attorney . . . holding office in the circuit where the action or proceeding is to be commenced or maintained, to maintain the action or proceeding under the direction of the attorney general."
13. Legal assistance to Chief of Police in enforcement of Automobile Safety Regulations. (Section 287-2, HRS)
14. Prosecute violations of Food, Drug and Cosmetic Act. (Section 328-28, HRS)
15. Legal assistance to Tax Collector.
16. Other duties.

Provide legal advice and advocacy upon request for commissions, boards, hearings, regular and special council and committee meetings, department and division meetings, conferences with Mayor and staff, including:

- Charter Review Commission
- Arborist Advisory Committee
- Historic Preservation Review Commission
- Board of Ethics
- Land Use Commission
- Committee on the Status of Women
- Fire Commission
- Public Access, Open Spaces Natural Resources Preservation Fund Committee
- Planning Commission
- Building Board of Appeals
- Housing Agency
- Police Commission
- Liquor Commission
- Board of Water Supply
- Civil Service Commission

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- Board of Review
- Cost Control Commission
- Salary Commission
- Council's Subcommittee on Housing
- Collective Bargaining
- Hawaii Labor Relations Board
- Workers' Compensation Appeals

To establish a litigation team to better serve the County in defending more cases in-house.

III. Program Description

The county attorney is the legal advisor and representative to the Council, the Mayor, all departments and agencies, all boards and commissions, and all officers and employees in matters relating to their official powers and duties.

Objectives

1. Assess all claims filed against the County, efficiently process those which this office determines to be valid, and vigorously defend against all others.
2. Produce and review all documents generated for the purpose of facilitating the delivery of governmental services by the County of Kaua'i to its citizens.
3. To provide such continuing legal education to the Mayor, the County Council, Departments, Commissions, Boards, and Agencies, as shall keep them current on changes in the law which affect the efficient and fair discharge of the duties of the County to its citizens.

Some of the successes and achievements of the Advice & Counsel Unit include:

1. Created an inter-office County Attorney Opinion Index.
2. Conducted training on using the contract templates and other contract drafting issues including tracking numbers, contract assignments, and insurance.
3. Conducted training on the legal aspects of applying for, receiving, and expending grant funds.
4. Continued assistance to the Division of Purchasing, in its initiative to move the County towards greater use of electronic records and electronic signatures.
5. Drafted the Rules of Practice and Procedure of the Public Access, Open Space Commission, and the Rules of Practice and Procedure of the Kauai Historic Preservation Review Commission.
6. Drafted Resolution to give the Kapaia Community ownership over the Kapaia Swinging Bridge so that this important historical landmark can be effectively preserved.
7. Drafted an ordinance to compassionately deal with homelessness on Kaua'i.

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8. Continued support of County efforts to site an Adolescent Drug Treatment Center on Kaua'i.
9. Continued to spearhead programs that support the native Hawaiian community and protect the host culture, heritage and entitlements.
10. Continued to advise on the Endangered Species Act and updated and submitted a revised Participant Inclusion Plan for the Kauai Seabird Habitat Conservation Plan.
11. Continued to advise on Uniform Information Practices Act requests.
12. Provided the Department of Finance assistance with developing an insurance worksheet and updating the standard insurance language that is attached to every County contract.
13. Drafted easement and conveyance documents for the Rice Street and Kapa'a Bike Path projects.

The Litigation Unit continues to manage the majority of the new litigation filed against the County, as well as filing necessary cases to protect the County's interests in all of the various judicial and quasi-judicial venues, including Federal District Court, State Circuit Court, State District Court, State and Federal Appellate courts, and the various administrative agencies.

Some of the successes and achievements of the Litigation Unit include:

1. Handled all planning contested cases in house, and cancelled one of the remaining special counsel contracts.
2. Closed 21 civil litigation cases, and 8 agency contested cases.
3. Utilized time tracking software to work against the self-insurance retention limits of the County insurance policy.

IV. Program Measures – Accomplishments/Evaluation

The Office of the County Attorney serves to provide legal support services to all other County departments and agencies.

1. The advice and council division drafted contract templates to standardize the following types of contracts and amendments: 1) goods; 2) goods (open ended); 3) services; 4) services (open ended); 5) professional services; 6) professional services amendment; 7) professional services (HRS 464 licensed design engineers, architects etc.); 8) professional services (464) amendments; 9) professional services legal; and 10) professional services legal amendments.
2. The litigation division continues to provide support to the various departments' collection of delinquent accounts receivables.
3. Handling the majority of litigation in house has reduced County reliance on special counsel.
4. Secured an Executive Order from State DLNR for the Kapa'a Armory for use by the County at no cost
5. Maintaining the updated General Provisions for Construction Contracts and General Terms and Conditions for Goods and Services Contracts

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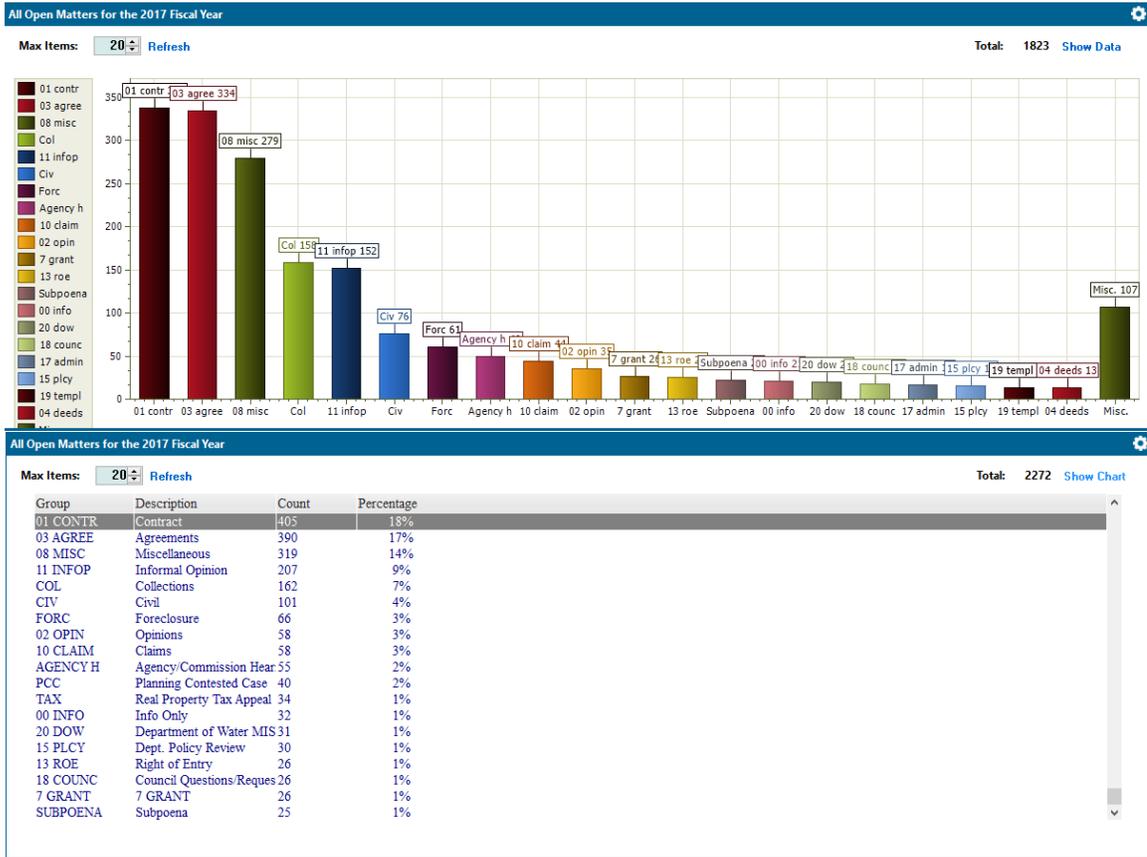
V. Budget

Resources (General Fund)

Expense Type	FY 2017 Appropriation	FY 2017 Actual
Equivalent Personnel (E/P)	15	15
Salaries and Wages	\$ 1,396,166	\$1,263,308
Operations	\$ 1,177,502	\$364,423
Equipment	\$ 0	\$ 0
Total	\$ 2,573,668	\$1,627,731

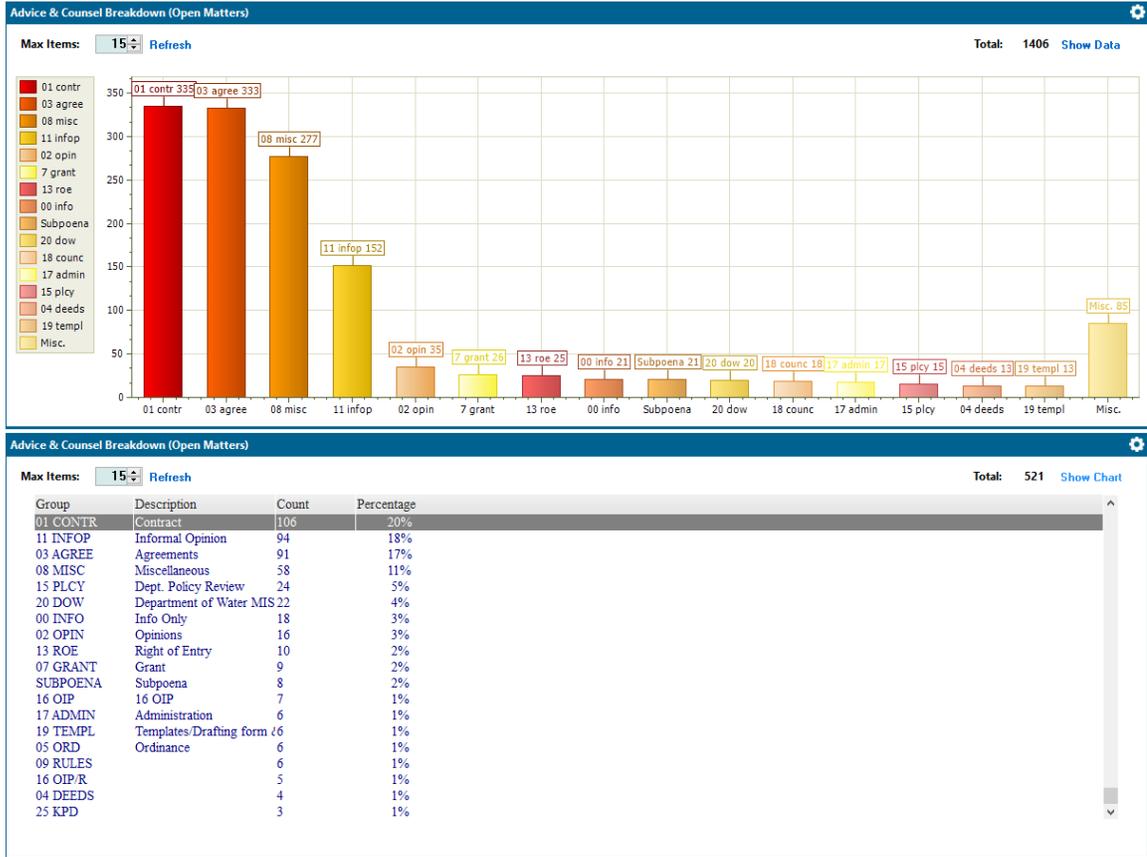
VI. Statistics

Office of the County Attorney Matters Opened in 2017

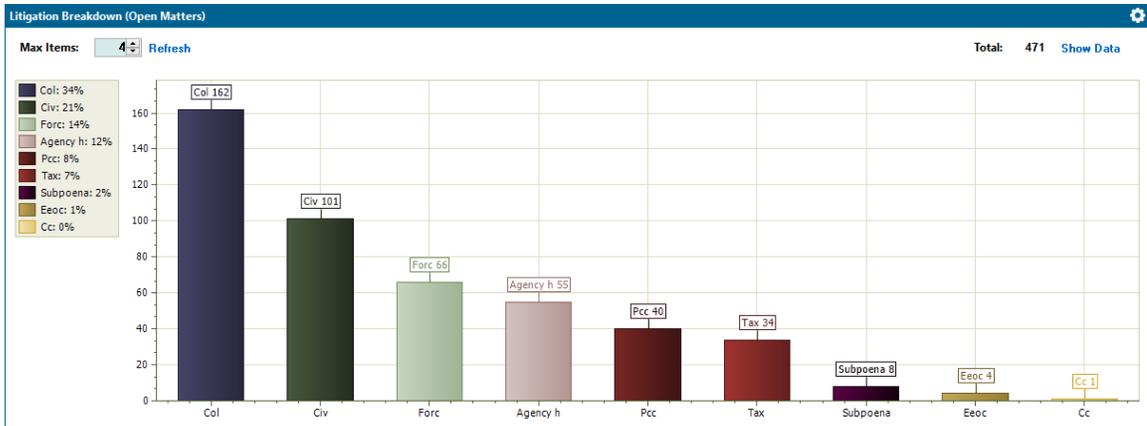


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Advice and Counsel Division Matters Opened in 2017



Litigation Division Current Open Matters



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Litigation Breakdown (Open Matters)			
Group	Description	Count	Percentage
COL	Collections	162	34%
CIV	Civil	101	21%
FORC	Foreclosure	66	14%
AGENCY H	Agency/Commission Hear	55	12%
PCC	Planning Contested Case	40	8%
TAX	Real Property Tax Appeal	34	7%
SUBPOENA	Subpoena	8	2%
EEOC	EEOC	4	1%
CC	Contested Case	1	0%

VII. Holo Holo 2020 Projects & Status

The Mayor announced in 2010 his Holo Holo 2020 Project List. The Office of the County Attorney assisted the various departments and agencies with several Holo Holo projects by providing legal advice, review of procedures, review and drafting of legal documents which are as follows:

- Assisted with the review of procurement and contractual documentation of the design consultant for a Residential Adolescent Drug Treatment Center.
- Provided continuing advice and counsel on the Lima Ola 75 acre green affordable housing development.
- Provided continuing advice and counsel on the expansion of Hanalei Beach Park.
- Provided continuing advice and counsel on the County’s various stewardship agreements.
- Provided continuing advice and counsel on the pilot closure of Eiwa Street.
- Provided continuing advice and counsel on the development of the new resource recovery park and landfill site.

VIII. Office Staff as of June 30, 2017

Mauna Kea TraskCounty Attorney
 Matthew M. Bracken First Deputy
 Jodi Higuchi-SayegusaDeputy
 Mahealani KrafftDeputy
 Nicholas R. CoursonDeputy
 Adam P. RoversiDeputy
 Teresa TumbagaDeputy

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Sinclair Salas-FergusonDeputy
Mark Bradbury.....Deputy
Peter MorimotoDeputy
Bentley Adams.....Deputy
Teresa Tamura Private Secretary
Barbara S. Montemayor Law Office Manager
Allison A. Hiranaka Paralegal II
DonnaLee Brinkerhoff Paralegal I
Michelle I. Vierra..... Legal Clerk II
VacantLegal Clerk III